



ADVISORY COUNCIL ON SHELLFISHERIES MINUTES OF DECEMBER 3, 2007



Richardson and Robbins Building Auditorium, 89 Kings Highway, Dover, Delaware 19901
Phone: 302-739-9914, Fax: 302-739-6157

ADVISORY COUNCIL

Leonard "Limbo" Voss, Jr., Chair
Patrick Gaffney
Larry Foley
Virgilio Pacelli (absent)
Paul Satterfield
Steven Copp (absent)
Charles Auman (absent)

DIVISION OF FISH & WILDLIFE

Roy Miller
Rick Cole
Craig Shirey
Patrick Emory
Kim Records

PUBLIC

15 Visitors

A digital recording of this meeting may be screened in the Fisheries section of the Division of Fish & Wildlife at the Richardson & Robbins Building in Dover. For further information, please contact the Fisheries section at (302)739-9914.

The meeting was called to order by Chairman Voss at 7:07 PM.

Agenda Item 1. Approval of Minutes from 5/23/2006

Mr. Voss welcomed everyone, and then, a motion was made, seconded and carried to approve the minutes from the last meeting held in May 2006.

Agenda Item 2. Discussion on Federal Scallop Dredge Permit Issues

a. Possible Letter from Advisory Council to our Congressional Delegation?

Mr. Miller introduced Dr. Tom Hoff from the Mid Atlantic Fishery Management Council to answer questions pertaining to the federal scallop action. **Dr. Hoff** explained that the New England Fishery Management Council submitted Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (hand-outs were provided). This amendment was developed to control the capacity of this open access general category fishery and control scallop mortality. It establishes a new management program with limited access, individual fishing quotas for qualified vessels, specific allocations and other measures in order to improve management of the general category scallop fishery. He said that back in 1994 there were approximately 1,500 general category permits issued and now there are close to 3,000 vessels permitted for this fishery. This is problematic because the general category fishery was originally intended to be a by-catch fishery. In order to be eligible to participate in the general category scallop fishery, an individual had to be in the fishery prior to Nov. 1, 2004 and had to have landed at least 1,000 pounds of scallops between 2000 and 2004. The comment period has been open since January, 2006 and will stay open until January 29, 2008. Dr. Hoff mentioned that in the 37 prior meetings of the Mid Atlantic Council (3 in DE and 34 in NJ), no comments have been received from any Delaware watermen. **Mr. Voss** said his understanding is that of all 3,000 permits, only one is a Delaware waterman, and he does not feel the NEFMC has been equitable in establishing the eligibility requirements. He asked if it

might be possible for consideration to be given Delaware watermen because of this state's "de minimus" (small) status. **Dr. Hoff** replied that because the data is confidential, he knows only that there are less than three federal permit holders from Delaware. He continued by saying there is an appeals process which interested parties may use, however current qualification criteria cannot be by-passed. **Mr. Foley** commented that he entered this fishery in 2004 and expressed bitterness that he was even allowed to enter. He said that he has spent a large amount of money on the necessary gear. He does not feel there is adequate representation for the fishermen from DE, NJ and MD, and he feels that the New England fishermen have over-fished their own resources and will soon over-fish Delaware's scallop resource. **Dr. Hoff** stated that he understands Mr. Foley's comments and strongly urged him to send his comments to the NEFMC before the Jan. 29 deadline. He said there is no way that the NEFMC can know how Delaware fishermen feel about Amendment 11 since there have been no comments received from anyone here. **Mr. Foley** said he feels the only possible appeal which may change the proposed action at this point is for Delaware watermen to contact Senators Biden and Carper, and Congressman Castle. Commercial fisherman **Mr. John Satterfield** asked about a letter written by another commercial fisherman-Rusty Trout-about 2 years ago regarding this subject. **Dr. Hoff** stated that to his knowledge, the NEFMC never received such a letter. **Mr. Voss** recalled a discussion during a previous SFAC meeting, so **Mr. Miller** read from the January 2006 meeting minutes, which state that Mr. Voss suggested copies of a finalized letter be sent to Senator Biden and Congressman Castle with the original finalized letter being sent to the NEFMC, and then the meeting minutes state that Mr. Auman made a motion, which passed, to endorse the letter. **Mr. Voss** then stated that he must have neglected following through with this action. **Mr. Emory** suggested contacting Laurie James at Legislative

Hall who may be able to track the letter down if it was forwarded there.

Agenda Item 3. Discussion on Draft Regulation to Require that One Crab Pot Color Code be used per Vessel

a. Recommendation from Advisory Council?

Mr. Voss summarized the events that took place at previous meetings on this topic. He stated that the DFW Enforcement Section, along with several commercial watermen-including himself, believe that allowing a vessel to use one crab pot color code would be easier to enforce and would make gear preparation and setting easier. Current regulations allow up to three crab pot licensees with separate color codes to fish from the same vessel. The Council had previously requested a draft regulation for their consideration from DFW staff. **Mr. Miller** then presented a draft regulation allowing one crab pot color code per vessel. **Mr. Foley** suggested a minor change to the draft regulation so that commercial crab potters would no longer be required to put the number on each cork because it is just too much trouble and it's unnecessary since the number is required to be on the vessel's board/sign. **Mr. Miller** stated that he will check with the Enforcement Section to see if the numbers are actually needed on the corks. Commercial waterman **Mr. Rob Piascinski** suggested allowing a "grace period" of one year for watermen to alter their gear to meet the new regulation. **Mr. Miller** asked if the Council would like to make the regulation become effective for 2009 instead of sometime in 2008 – **Mr. Foley** replied positively, and the Council then passed a motion to support the draft regulation with the aforementioned modifications.

Agenda Item 4. Re-planting Shell from Harvested Oysters - Should it be a Requirement?

Mr. Voss mentioned that **Mr. Foley** had suggested to the DFW that they should look into re-acquiring the shells from harvested oysters in order to re-plant them. **Mr. Cole** stated he is under the assumption that this recommendation came up because of the fact that North Carolina and possibly some other states have this type of program. **Mr. Foley** clarified that he had heard MD was somewhat successfully replanting shell in some of their rivers. **Mr. Cole** went over the economics of the Department's shell planting over the past 3 years, adding that 350 acres have now been planted with shell. In 2005, 135,000 bushels of shell were planted, in 2006, there were 182,000 bushels, and in 2007, 371,000 bushels of shell were planted. **Mr. Cole** said considering the DFW's current program limitations, and under the current "constant harvest strategy" with a 12,000 bushel annual quota, he does not think it is economically feasible to start a re-planting program. He mentioned that there is \$84,000 in the Oyster Cost Recovery Fund to be used for purchasing shell in the near future. He stated that NJ and DE have already purchased 580,000 bushels of shell that are ready for planting next year, however we do not have the funds to cover the cost of planting. The request for

funding has been made and approved by congress, but Delaware's portion has not yet been determined.

Agenda Item 5. Update on Horseshoe Crab Artificial Bait Research

Mr. Miller said he has a Power Point presentation sent to him from Dr. Nancy Targett, Dean of the College of Marine Studies of the University of Delaware, documenting her research on horseshoe crab artificial bait. He explained that research funding was established from a variety of sources such as Coastal Zone funds, but mostly from Department penalty funds (fines placed against major industries). Also, the DuPont Company has taken an active voluntary interest in this research. He then went through the presentation and summarized the data collected, and the results of the research team's field trials. The field trials showed very promising results. Dr. Targett reported that field trials using male horseshoe crabs showed results as favorable as with female horseshoe crabs. He said the gelatin-based bait matrix the research team has formulated is stable, sustainable and functional, but there is more research needed before a final, marketable product can be made available. **Mr. Miller** said he anticipates that there will be field trials using commercial watermen conch pots sometime in 2008, but he does not expect a commercial bait product to become available in 2008.

Agenda Item 6. Update on Horseshoe Crab Harvest Regulations for 2008 in DE and NJ

Mr. Miller stated that in 2008 Delaware horseshoe crab collectors will be permitted to harvest 100,000 male horseshoe crabs from Port Mahon and private beaches (with permission) 5 days/week, Monday through Friday, after June 8th. This slight change in beach collection days is in anticipation that it will result in more efficient collection and that beach collectors will have a better chance of collecting a higher proportion of the total quota. The ASMFC determined the 100,000 male horseshoe crab harvest quota for two years. This action ends at the start of 2009, and the ASMFC has not yet determined what they will require from all the Atlantic states beginning in 2009. New Jersey has had a total moratorium since 2006, and he found out today from the New Jersey Register that they propose to have an indefinite moratorium until parameters are developed that show that the horseshoe crab eggs are meeting the needs of the shorebirds. The NJ Marine Fisheries Council has veto authority over any Department regulation. Once an action appears in their Register of Regulations, the Council has sixty days to approve or veto the action, so it is possible this indefinite moratorium could be overturned.

Agenda Item 7. Topics and Tentative Date for Next Meeting and Consideration of a More Regular Meeting Schedule

Mr. Voss asked the council members if quarterly meetings would be acceptable to them, to which all

council members replied positively. Then, he asked for possible agenda items for the next meeting:

1. **Mr. Voss** suggested resuming discussion of the issue regarding one color code/crab pot vessel.
2. **Mr. Foley** suggested having an update on entanglement in relation to conch pots.
3. **Mr. Foley/Mr. Miller** suggested having a general discussion of the requirements for entry into the fish pot and crab pot fisheries (including the toadfish issue).
4. Update on horseshoe crabs.

The next meeting will be in March 2008 (tentative). There being no further business, a motion carried to adjourn at 9:33 PM.

Respectfully submitted,



Kim Records
Recording Secretary